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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,813	08/20/2003	Yoji Nakatani	ASA-5019	8842

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EXAMINER	
BHATIA, AJAY M	
ART UNIT	**PAPER NUMBER**
2145	

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/645,813	NAKATANI ET AL.	
	Examiner	Art Unit	
	Ajay M. Bhatia	2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 January 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *56-67* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *56-67* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 1/12/06
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Response to Arguments

Applicant has filed an RCE January 12, 2006. Applicant canceled previous claims and has submitted new claims 56-67. Therefore previous arguments are moot because a new grounds of rejection is presented below. Examiner would also like to thank applicant and his representative for conducting a productive interview on February 7, 2006.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 56-67 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 24-38 of copending Application No. 11/201252. Although the conflicting claims are not identical, they are

not patentably distinct from each other because they are a previous version of the currently pending claims that are broader in scope.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 56-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eshel et al. (U.S. Patent 5,535,375) with Nakano et al. (U.S. Patent 6,502,212).

For claim 56, Eshel teaches, a gateway apparatus coupled to a client computer and a file server via a network comprising:

a first interface, coupled to the client computer via the network, which receives a first type file access request from the client computer based on a first type protocol; (Eshel, Col. 4 lines 55-67, SMB)

a second interface, coupled to the file server via the network, which outputs a second type file access request to the file server based on a second type protocol, a processing unit coupled to the first and second interface; (Eshel, Col. 5 lines 64-67, NFS)

and a memory coupled to the processing unit; (Eshel, Col. 4 lines 24-62, DASD)

wherein the first type file access request includes a path name indicating a directory including a file to be accessed and a file name indicating the file, and the file name is a first type of unique identifier in the directory; (Eshel, Col. 5 lines 12-27m file name)

wherein the second type file access request includes a file ID which is a second type of unique identifier in the file server and indicates the file, wherein the memory stores information of correspondence between path name information and file name information of the first type protocol, and file ID information of the second type protocol; (Eshel, Col. 5 lines 55-63, Col. 6 lines 20-42, DASD)

Eshel fails to clearly disclose, wherein, when the first interface receives a first command of the first type file access request from the client computer, the first command including a first set of a first path name and a first file name related to a first file and instructing to write the first file, the processing unit checks whether the first file is already created or not in the file server;

wherein after checking, if the first file is not created in the file server, the processing unit sends a second command of the second type file access request to the file server via the second interface, the second command for making the file server create the first file which is assigned to a first file ID of the second type protocol in the file server;

wherein after checking, if the first file has been created in the file server, the processing unit sends a third command of the second type file access request to the file server via the second interface, the third command for making the file server create a second file which includes updated data of the first file and is assigned to a second file ID of the second type protocol in the file server;

and wherein the first file ID is different from the second file ID.

Nakano teaches, wherein, when the first interface receives a first command of the first type file access request from the client computer, the first command including a first set of a first path name and a first file name related to a first file and instructing to write the first file, the processing unit checks whether the first file is already created or not in the file server; (Nakano, Col. 12 lines 9-37, search for "n")

wherein after checking, if the first file is not created in the file server, the processing unit sends a second command of the second type file access request to the file server via the second interface, the second command for making the file server create the first file which is assigned to a first file ID of the second type protocol in the file server; (Nakano, Col. 12 lines 9-37, create "n")

wherein after checking, if the first file has been created in the file server, the processing unit sends a third command of the second type file access request to the file server via the second interface, the third command for making the file server create a second file which includes updated data of the first file and is assigned to a second file

ID of the second type protocol in the file server; (Nakano, Col. 12 lines 37-60, updated version of "n" new generation)

and wherein the first file ID is different from the second file ID. (Eshel, Col. 12 lines 9-60, new generation)

Nakano and Eshel are in the same field of endeavor, file data management

Nakano is compatible with Eshel because, Nakano is a extension of an existing data system and able to run on multiple types of file systems (Nakano, Col. 5 lines 9-45)

It would have been obvious to on of ordinary skill in the art at the time of the invention was made to combine Eshel with Nakano, because large projects that are actively in use would befit from being able to edit and modify an existing system without affecting it current operation, by adding versioning. (Nakano Col. 2 lines 22-30, Col. 2 lines 54-60)

For claim 57, Eshel-Nakano teaches, the gateway apparatus according to claim 56,

wherein, after the second file is created in the file server, if the first interface receives a fourth command of the first type file access request from the client computer, the fourth command including the first set of the first path name and the first file name related to the first file and instructing to read the first file, the processing unit sends a fifth command of the second type file access request to the file server via the second

interface, the fifth command including the second file ID assigned to the second file and making the file server send the second file including the update data of the first file to the gateway apparatus. (Nakano, Col. 12 lines 9-60, new generation) (Eshel, Col. 5 lines 55-63, Col. 6 lines 20-42, DASD)

For claim 58, Eshel-Nakano teaches, the gateway apparatus according to claim 57, wherein the first interface and the second interface are the same. (Eshel, Col. 6 lines 20-42, SMB)

For claim 59, Eshel-Nakano teaches, the gateway apparatus according to claim 57, wherein the first interface is configured to receive the first type file access request according to NFS, CIFS or both. (Eshel, Col. 5 line 64 to Col. 6 line 19, NFS)

For claim 60, Eshel-Nakano teaches, the gateway apparatus according to claim 59, wherein the processing unit modifies the information in the memory to include relationship information among the first set of the first path name and the first file name, the first file ID and the second file ID in the memory. (Eshel, Col. 5 lines 55-63, Col. 6 lines 20-42, DASD)

For claim 61, Eshel-Nakano teaches, a gateway apparatus according to claim 60,

wherein the first command of the first type file access request comprises a plurality of commands as a command sequence; (Eshel, Col. 10 lines 16-25, Col. 8 lines 44-51)

and wherein the processing unit identifies an end of the command sequence of the first command by checking a predetermined time measured from a time at which the first interface receives a latest command of the command sequence of the first command. (Eshel, Col. 10 lines 16-25, Col. 8 lines 44-51) (Nakano, Col. 8 line 61 to Col. 9 line 3, generations)

For claim 62, Eshel teaches, a gateway apparatus coupled to a client computer and a file server via a network comprising:

an interface, coupled to the client computer and the file server via the network, which receives a first type file access request from the client computer in accordance with a first type protocol and outputs a second type file access request to the file server in accordance with a second type protocol; (Eshel,Col. 5 line 64 to Col. 6 line 19)

a processing unit coupled to the interface; (Eshel, Col. 4 lines 24-62, DASD)

and a memory coupled to the processing unit; (Eshel, Col. 4 lines 24-62, DASD)

wherein the first type file access request includes a path name indicating a directory including a file to be accessed and a file name indicating the file, and the file name is a first type of unique identifier in the directory; (Eshel, Col. 5 lines 12-27)

wherein the second type file access request includes a file ID which is a second type of unique identifier in the file server and indicates the file; . (Eshel, abstract, Col. 5 line 55 to Col. 6 line 19)

wherein the memory stores information of correspondence between path name information and file name information of the first type protocol, and file ID information of the second type protocol; (Eshel, abstract, Col. 5 line 55 to Col. 6 line 19)

Eshel fails to clearly disclose, wherein if the interface receives a first request of the first type file access request from the client computer, the first request including a first set of a first path name and a first file name related to a first file and instructing to create the first file from the client computer, the processing unit sends a second request of the second type file access request to the file server via the interface, the second request making the file server create the first file which is assigned to a first file ID of the second type protocol in the file server;

wherein, after processing the first request of the first type file access request, if the interface receives a third request of the first type file access request from the client computer, the third request including the first set of the first path name and the first file name related to the first file and instructing to update the first file, the processing unit sends a fourth request of the second type file access request to the file server via the interface, the fourth request making the file server create a second file which includes updated data of the first file and is assigned to a second file ID in the file server;

and wherein the first file ID is different from the second file ID.

Nakano teaches, wherein if the interface receives a first request of the first type file access request from the client computer, the first request including a first set of a first path name and a first file name related to a first file and instructing to create the first file from the client computer, the processing unit sends a second request of the second type file access request to the file server via the interface, the second request making the file server create the first file which is assigned to a first file ID of the second type protocol in the file server; (Nakano, Col. 12 lines 9-37)

wherein, after processing the first request of the first type file access request, if the interface receives a third request of the first type file access request from the client computer, the third request including the first set of the first path name and the first file name related to the first file and instructing to update the first file, the processing unit sends a fourth request of the second type file access request to the file server via the interface, the fourth request making the file server create a second file which includes updated data of the first file and is assigned to a second file ID in the file server; (Nakano, Col. 12 lines 37-60)

and wherein the first file ID is different from the second file ID. (Nakano, Col. 12 lines 9-60)

Nakano and Eshel are in the same field of endeavor, file data management

Nakano is compatible with Eshel because, Nakano is a extension of an existing data system and able to run on multiple types of file systems (Nakano, Col. 5 lines 9-45)

It would have been obvious to on of ordinary skill in the art at the time of the invention was made to combine Eshel with Nakano, because large projects that are actively in use would befit from being able to edit and modify an existing system without affecting it current operation, by adding versioning. (Nakano Col. 2 lines 22-30, Col. 2 lines 54-60)

For claim 63, Eshel-Nakano teaches, the gateway apparatus according to claim 62,

wherein, after the second file is created in the file server, if the interface receives a fifth request of the first type file access request from the client computer, the fifth request including the first set of the first path name and the first file name related to the first file and instructing to read the first file, the processing unit sends a sixth request of the second type file access request to the file server via the interface, the sixth request including the second file ID assigned to the second file and making the file server send the second file including the update data of the first file to the gateway apparatus. (Nakano, Col. 12 lines 9-37)

For claim 64, Eshel-Nakano teaches, the gateway apparatus according to claim 63,

wherein the interface includes a first interface receiving the first type file access request from the client computer in accordance with the first type protocol and a second interface issuing the second type file access request to the file server based on the second type protocol. (Eshel, Col. 5 lines 55-63, Col. 6 lines 20-42, DASD)

For claim 65, Eshel-Nakano teaches, the gateway apparatus according to claim 63,

wherein the interface is configured to receive the first type file access request according to NFS, CIFS or both. (Eshel, Col. 5 line 64 to Col. 6 line 19, NFS)

For claim 66, Eshel-Nakano teaches, the gateway apparatus according to claim 65,

wherein the processing unit modifies the information to include relationship information among the first set of the first path name and the first file name, the first file ID and the second file ID into the memory. (Eshel,Col. 8 lines 22-29)

For claim 67, Eshel-Nakano teaches, a gateway apparatus according to claim 66, wherein the first command of the first type file access request comprises a plurality of commands as a command sequence; and (Eshel, Col. 10 lines 16-25, Col. 8 lines 44-51)

wherein the processing unit identifies an end of the command sequence of the first command by checking a predetermined time measured from a time at which the interface receives a latest command of the command sequence of the first command.

(Eshel, Col. 10 lines 16-25, Col. 8 lines 44-51) (Nakano, Col. 8 line 61 to Col. 9 line 3, generations)

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached UPSTO 892 (if appropriate).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajay M. Bhatia whose telephone number is (571)-272-3906. The examiner can normally be reached on M-F 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571)272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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